

deportability is determined on the pleadings pursuant to §1240.48(b) and the respondent does not make an application under §1240.49, or the respondent applies for voluntary departure only and the immigration judge grants the application, the immigration judge may enter a summary decision on Form EOIR-7, Summary Order of Deportation, if deportation is ordered, or on Form EOIR-6, Summary Order of Voluntary Departure, if voluntary departure is granted with an alternate order of deportation.

(c) *Order of the immigration judge.* The order of the immigration judge shall direct the respondent's deportation, or the termination of the proceedings, or such other disposition of the case as may be appropriate. When deportation is ordered, the immigration judge shall specify the country, or countries in the alternate, to which respondent's deportation shall be directed. The immigration judge is authorized to issue orders in the alternative or in combination as he or she may deem necessary.

#### § 1240.51 Notice of decision.

(a) *Written decision.* A written decision shall be served upon the respondent and the Service counsel, together with the notice referred to in §1003.3 of this chapter. Service by mail is complete upon mailing.

(b) *Oral decision.* An oral decision shall be stated by the immigration judge in the presence of the respondent and the trial attorney, if any, at the conclusion of the hearing. Unless appeal from the decision is waived, the respondent shall be furnished with Form EOIR-26, Notice of Appeal, and advised of the provisions of §1240.53. A printed copy of the oral decision shall be furnished at the request of the respondent or the Service counsel.

(c) *Summary decision.* When the immigration judge renders a summary decision as provided in §1240.51(b), he or she shall serve a copy thereof upon the respondent at the conclusion of the hearing. Unless appeal from the decision is waived, the respondent shall be furnished with Form EOIR-26, Notice of Appeal, and advised of the provisions of §1240.54.

#### § 1240.52 Finality of order.

The decision of the immigration judge shall become final in accordance with §1003.39 of this chapter.

#### § 1240.53 Appeals.

(a) Pursuant to 8 CFR part 1003, an appeal shall lie from a decision of an immigration judge to the Board, except that no appeal shall lie from an order of deportation entered in absentia. The procedures regarding the filing of a Form EOIR-26, Notice of Appeal, fees, and briefs are set forth in §§1003.3, 1003.31, and 1003.38 of this chapter. An appeal shall be filed within 30 calendar days after the mailing of a written decision, the stating of an oral decision, or the service of a summary decision. The filing date is defined as the date of receipt of the Notice of Appeal by the Board. The reasons for the appeal shall be stated in the Form EOIR-26, Notice of Appeal, in accordance with the provisions of §1003.3(b) of this chapter. Failure to do so may constitute a ground for dismissal of the appeal by the Board pursuant to §1003.1(d)(2) of this chapter.

(b) *Prohibited appeals; legalization or applications.* An alien respondent defined in §245a.2(c)(6) or (7) of this chapter who fails to file an application for adjustment of status to that of a temporary resident within the prescribed period(s), and who is thereafter found to be deportable by decision of an immigration judge, shall not be permitted to appeal the finding of deportability based solely on refusal by the immigration judge to entertain such an application in deportation proceedings.

[62 FR 10367, Mar. 6, 1997, as amended at 66 FR 6446, Jan. 22, 2001]

#### § 1240.54 [Reserved]

### Subpart F—Suspension of Deportation and Voluntary Departure (for Proceedings Commenced Prior to April 1, 1997)

#### § 1240.55 Proceedings commenced prior to April 1, 1997.

Subpart F of 8 CFR part 1240 applies to deportation proceedings commenced prior to April 1, 1997. A deportation